

AMENDMENT TO RULES COMM. PRINT 116–57

OFFERED BY MR. ENGEL OF NEW YORK

Add at the end of subtitle G of title XII the following:

1 **SEC. 12____. ESTABLISHMENT OF NATIONAL COMMISSION**

2 **ON U.S. COUNTERTERRORISM POLICY.**

3 (a) ESTABLISHMENT.—There is established an inde-
4 pendent commission within the legislative branch to be
5 known as the “National Commission on U.S. Counterter-
6 rorism Policy” (in this section referred to as the “Commis-
7 sion”).

8 (b) PURPOSE.—The Commission shall—

9 (1) review United States counterterrorism ob-
10 jectives, priorities, capabilities, policies, programs,
11 and activities; and

12 (2) assess how to adapt such policies, programs,
13 and activities to ensure they—

14 (A) employ an appropriate mix of available
15 instruments of national power;

16 (B) comply with the rule of law and re-
17 spect for civil rights, civil liberties, and human
18 rights;

1 (C) appropriately focus on existing and
2 emerging terrorism threats; and

3 (D) are appropriately balanced relative to
4 the pursuit of other United States interests in
5 an era when the United States faces a diverse
6 range of threats from domestic and inter-
7 national terrorism, a dynamic number of polit-
8 ical, economic, and military competitions
9 around the world, and challenges within the
10 United States.

11 (c) STUDY AREAS.—In carrying out subsection (b),
12 the Commission shall study the following:

13 (1) The evolution of threats to the United
14 States since September 11, 2001, from international
15 and domestic terrorism, including—

16 (A) an assessment of potential connections
17 between such threats, and the risks such
18 threats pose relative to other threats to the
19 United States and United States national inter-
20 ests; and

21 (B) the effects of United States counter-
22 terrorism objectives, priorities, capabilities, poli-
23 cies, programs, and activities on such threats.

24 (2) Major lessons learned from United States
25 counterterrorism objectives, priorities, capabilities,

1 policies, programs, and activities since September
2 11, 2001, and the relevance of such lessons for on-
3 going and future counterterrorism objectives, prior-
4 ities, policies, programs, and activities.

5 (3) Ongoing United States counterterrorism ob-
6 jectives, priorities, capabilities, policies, programs,
7 and activities, including an assessment of the fol-
8 lowing:

9 (A) Whether such objectives, priorities, ca-
10 pabilities, policies, programs, and activities are
11 appropriately integrated, programmatically and
12 organizationally, into wider United States for-
13 eign and domestic policy.

14 (B) The resources devoted to counterter-
15 rorism and whether such resources are appro-
16 priately balanced across the range of counter-
17 terrorism programs and activities conducted by
18 the United States, and the actions necessary to
19 improve such balance if necessary.

20 (C) The counterterrorism-related tradeoffs
21 the United States may face as it seeks to bal-
22 ance the pursuit of counterterrorism objectives,
23 priorities, capabilities, policies, programs, and
24 activities with the growing number of domestic
25 challenges and political, economic, and military

1 competitions around the world, and how to
2 mitigate any terrorism-related risks such trade-
3 offs might pose.

4 (D) The potential new or emerging chal-
5 lenges or opportunities of conducting counter-
6 terrorism operations in contested environments
7 where strategic state competitors such as Rus-
8 sia, China, or Iran operate, and identification of
9 actions the United States Government should
10 take to mitigate potential risks and take advan-
11 tage of possible opportunities.

12 (E) The instruments used to advance
13 counterterrorism objectives and identification of
14 new or modified instruments, if appropriate.

15 (F) Any impacts of such counterterrorism
16 objectives, priorities, capabilities, policies, pro-
17 grams, and activities on civil rights and civil lib-
18 erties in the United States and internationally
19 recognized human rights and humanitarian
20 principles abroad.

21 (G) Congressional oversight of such objec-
22 tives, priorities, capabilities, policies, programs,
23 and activities.

24 (4) The legal and policy frameworks for
25 counterterrorism programs and activities in the

1 United States and abroad, including adherence to
2 such frameworks.

3 (5) The state of United States counterterrorism
4 partnerships, including—

5 (A) the impact of United States counter-
6 terrorism objectives, priorities, capabilities, poli-
7 cies, programs, and activities on the counterter-
8 rorism objectives, priorities, capabilities, poli-
9 cies, programs, and activities of partner coun-
10 tries; and

11 (B) the willingness, capacity, and capa-
12 bility of United States counterterrorism part-
13 ners to combat shared threats, and the impact
14 of security assistance and foreign assistance on
15 such willingness, capacity, and capability.

16 (6) The policies and operations of private in-
17 dustries, including the defense industry and tech-
18 nology and media industries, that have implications
19 for domestic terrorism and international terrorism,
20 including implications of involvement of private in-
21 dustries in United States counterterrorism objec-
22 tives, priorities, capabilities, policies, programs, and
23 activities.

24 (7) Ongoing efforts by the executive branch to
25 measure the effectiveness of United States counter-

1 terrorism objectives, priorities, capabilities, policies,
2 programs, and activities through net assessments
3 and evaluations of lessons learned, including an as-
4 sessment of efforts to address factors that contribute
5 to terrorist recruitment and radicalization.

6 (8) Recommendations on how best to adapt
7 United States counterterrorism objectives, priorities,
8 capabilities, policies, programs, and activities to en-
9 sure they are appropriately balanced and address ex-
10 isting and emerging terrorism risks on the basis of
11 the areas of study specified in this subsection and
12 any other findings the Commission determines rel-
13 evant.

14 (d) COMPOSITION.—

15 (1) MEMBERS.—The Commission shall be com-
16 posed of 14 commissioners, to be appointed as fol-
17 lows:

18 (A) One commissioner appointed by the
19 Chairman, with the concurrence of the ranking
20 member, of each of the appropriate congres-
21 sional committees.

22 (B) A Chairperson, appointed by the
23 Speaker of the House of Representatives, with
24 the concurrence of the Minority Leader of the
25 House of Representatives.

1 (C) A Vice-Chairperson, appointed by the
2 Majority Leader of the Senate, with the concur-
3 rence of the Minority Leader of the Senate.

4 (2) QUALIFICATIONS.—Individuals appointed to
5 the Commission shall be United States persons with
6 relevant counterterrorism expertise and experience in
7 diplomacy, law enforcement, the Armed Forces, law,
8 public administration, Congress, intelligence, aca-
9 demia, human rights, civil rights, or civil liberties.
10 The leadership of the House of Representatives and
11 the Senate shall coordinate with the appropriate con-
12 gressional committees to ensure that Commission
13 membership represents a variety of expertise in such
14 fields. At least one of the commissioners shall pos-
15 sess a civil rights or civil liberties background in ad-
16 dition to relevant counterterrorism expertise, and
17 one commissioner shall possess an international
18 human rights background in addition to relevant
19 counterterrorism expertise.

20 (3) PROHIBITIONS.—An individual appointed to
21 the Commission may not be—

22 (A) a Member of Congress, including a
23 Delegate or Resident Commissioner;

24 (B) an employee or official of any other
25 branch of the Federal Government;

1 (C) an employee or official of any State,
2 territory, county, or municipality in the United
3 States; or

4 (D) a registered lobbyist.

5 (4) CONFLICTS OF INTEREST.—An individual
6 appointed to the Commission shall disclose any fi-
7 nancial gains from private sector employment con-
8 ducted in support of United States counterterrorism
9 objectives, priorities, capabilities, policies, programs,
10 or activities at any time since the September 11,
11 2001, attacks.

12 (5) DEADLINE FOR APPOINTMENT OF COMMIS-
13 SIONERS.—Individuals appointed to the Commission
14 shall be appointed not later than—

15 (A) 30 days after the date of the enact-
16 ment of this Act, or

17 (B) December 31, 2020,
18 whichever occurs first.

19 (6) PERIOD OF APPOINTMENT.—Each commis-
20 sioner and the Chairperson and Vice-Chairperson
21 shall be appointed for the life of the Commission.

22 (7) VACANCIES.—Any vacancy in the Commis-
23 sion shall not affect its powers and duties and shall
24 be filled in the same manner as the original appoint-
25 ment within 30 days of such vacancy occurring.

1 (8) COMPENSATION.—Commissioners and the
2 Chairperson and Vice-Chairperson shall serve with-
3 out pay.

4 (9) TRAVEL EXPENSES.—Commissioners and
5 the Chairperson and Vice-Chairperson shall receive
6 travel expenses, including per diem in lieu of subsist-
7 ence, in accordance with sections 5702 and 5703 of
8 title 5, United States Code, while away from their
9 homes or regular places of business in performance
10 of services for the Commission.

11 (e) MEETINGS.—

12 (1) INITIAL MEETING.—The initial meeting of
13 the Commission shall be held not later than 30 days
14 after the satisfaction of all of the following:

15 (A) The appointment of two-thirds of the
16 members of the Commission, including at least
17 one of the Chairperson or Vice-Chairperson.

18 (B) The transfer of funding under sub-
19 section (k).

20 (2) RESPONSIBILITY.—The Commission shall,
21 at its initial meeting, develop and implement a
22 schedule for completion of the review and assess-
23 ment under subsection (b) and report under sub-
24 section (m)(2).

1 (3) SUBSEQUENT MEETINGS.—The Commission
2 shall meet at the call the Chairperson or a majority
3 of commissioners.

4 (4) QUORUM.—Eight commissioners shall con-
5 stitute a quorum, and commissioners may vote by
6 proxy.

7 (f) CONSULTATION.—In conducting the review and
8 assessment and study required under this section, the
9 Commission shall consult with relevant experts in the Fed-
10 eral Government (including relevant Members of Congress
11 and congressional staff), academia, law, civil society, and
12 the private sector.

13 (g) POWERS OF THE COMMISSION.—

14 (1) HEARINGS AND EVIDENCE.—For the pur-
15 poses of carrying out this section, the Commission
16 may—

17 (A) hold classified or unclassified hearings,
18 take testimony, receive evidence, and administer
19 oaths; and

20 (B) subject to paragraph (3), require, by
21 subpoena authorized by majority vote of the
22 Commission and issued under the signature of
23 the Chairperson or any member designated by
24 a majority of the Commission, the attendance
25 and testimony of such witnesses and the pro-

1 duction of such books, records, correspondence,
2 memoranda, papers, and documents, as the
3 Commission may determine advisable.

4 (2) NOTIFICATION OF COMMITTEES.—If the
5 Commission is unable to obtain testimony or docu-
6 ments needed to conduct its work, the Commission
7 shall notify the appropriate congressional commit-
8 tees.

9 (3) SUBPOENA ENFORCEMENT.—

10 (A) IN GENERAL.—In the case of contu-
11 macy or failure to obey a subpoena issued
12 under paragraph (1)(B), the United States dis-
13 trict court for the judicial district in which the
14 subpoenaed person resides, is served, or may be
15 found, or where the subpoena is returnable,
16 may issue an order requiring such person to ap-
17 pear at any designated place to testify or to
18 produce documentary or other evidence. Any
19 failure to obey the order of the court may be
20 punished by the court as a contempt of that
21 court.

22 (B) ADDITIONAL ENFORCEMENT.—In the
23 case of any failure of any witness to comply
24 with any subpoena or to testify when sum-
25 moned under authority of this section, the Com-

1 mission may, by majority vote, certify a state-
2 ment of fact constituting such failure to the ap-
3 propriate United States attorney, who may
4 bring the matter before the grand jury for its
5 action, under the same statutory authority and
6 procedures as if the United States attorney had
7 received a certification under sections 102
8 through 104 of the Revised Statutes of the
9 United States (2 U.S.C. 192 through 194).

10 (4) LIMITATIONS ON SUBPOENA AUTHORITY.—

11 With respect to the subpoena authority under para-
12 graph (1)(B), the Commission—

13 (A) may only issue a subpoena to a mem-
14 ber of Federal, State, local, Tribal, or territorial
15 government;

16 (B) may reference unclassified documents
17 and information obtained through a subpoena
18 when conducting interviews to further the Com-
19 mission's objectives, and may include such doc-
20 uments and information in the final report, but
21 may not otherwise share, disclose, publish, or
22 transmit in any way any information obtained
23 through a subpoena to another Federal depart-
24 ment or agency, any agency of a State, local,

1 Tribal, or territorial government, or any inter-
2 national body; and

3 (C) shall comply with requirements for the
4 issuance of a subpoena issued by a United
5 States district court under the Federal Rules of
6 Civil Procedure.

7 (5) MEETINGS.—The Commission shall—

8 (A) hold public hearings and meetings;

9 (B) hold classified hearings or meetings if
10 necessary to discuss classified material or infor-
11 mation; and

12 (C) provide an opportunity for public com-
13 ment, including sharing of research and policy
14 analysis, through publication in the Federal
15 Register of a solicitation for public comments
16 during a period to last not fewer than 45 days.

17 (h) RESOURCES.—

18 (1) AUTHORITY TO USE THE UNITED STATES
19 MAILS.—The Commission may use the United States
20 mails in the same manner and under the same con-
21 ditions as other Federal agencies.

22 (2) DOCUMENTS, STATISTICAL DATA AND
23 OTHER SUCH INFORMATION.—Upon written request
24 by the Chairperson, Vice-Chairperson, or any com-
25 missioner designated by a majority of the Commis-

1 sion, an executive department, bureau, agency,
2 board, commission, office, independent establish-
3 ment, or instrumentality of the Federal Govern-
4 ment—

5 (A) shall provide reasonable access to doc-
6 uments, statistical data, and other such infor-
7 mation the Commission determines necessary to
8 carry out its duties; and

9 (B) shall, to the extent authorized by law,
10 furnish any information, suggestions, estimates,
11 and statistics the Commission determines nec-
12 essary to carry out its duties.

13 (3) GIFTS.—No member or staff of the Com-
14 mission may receive a gift or benefit by reason of
15 the service of such member or staff to the Commis-
16 sion.

17 (4) AUTHORITY TO CONTRACT.—

18 (A) IN GENERAL.—The Commission is au-
19 thorized to enter into contracts, leases, or other
20 legal agreements with Federal and State agen-
21 cies, Indian tribes, Tribal entities, private enti-
22 ties, and individuals for the conduct of activities
23 necessary to the discharge of its duties.

24 (B) TERMINATION.—A contract, lease, or
25 other legal agreement entered into by the Com-

1 mission under this paragraph may not extend
2 beyond the date of termination of the Commis-
3 sion.

4 (5) INAPPLICABILITY OF FACA.—The Federal
5 Advisory Committee Act (5 U.S.C. App.) shall not
6 apply to the activities of the Commission under this
7 section.

8 (6) OFFICE SPACE AND ADMINISTRATIVE SUP-
9 PORT.—The Architect of the Capitol shall make of-
10 fice space available for day-to-day activities of the
11 Commission and for scheduled meetings of the Com-
12 mission. Upon request, the Architect of the Capitol
13 shall provide, on a reimbursable basis, such adminis-
14 trative support as the Commission requests to carry
15 out its duties.

16 (7) ASSISTANCE FROM FEDERAL AGENCIES.—

17 (A) GENERAL SERVICES ADMINISTRA-
18 TION.—The Administrator of General Services
19 shall provide to the Commission on a reimburs-
20 able basis administrative support and other
21 services as the Commission requests to carry
22 out its duties.

23 (B) FEDERAL DEPARTMENTS AND AGEN-
24 CIES.—Federal departments and agencies may
25 provide to the Commission such services, funds,

1 facilities, staff, and other support services as
2 such departments and agencies consider advis-
3 able and as may be authorized by law.

4 (i) STAFF.—

5 (1) DIRECTOR.—The Chairperson, in consulta-
6 tion with the Vice-Chairperson, and in accordance
7 with rules agreed upon by the Commission, may ap-
8 point a staff director.

9 (2) STAFF.—With the approval of the Commis-
10 sion, the staff director may appoint such employees
11 as the staff director determines necessary to enable
12 the Commission to carry out its duties.

13 (3) STAFF QUALIFICATIONS.—The staff direc-
14 tor shall ensure employees of the Commission have
15 relevant counterterrorism expertise and experience,
16 including in areas such as diplomacy, law enforce-
17 ment, the Armed Forces, law, public administration,
18 Congress, intelligence, academia, human rights, civil
19 rights, or civil liberties.

20 (3) APPOINTMENTS AND COMPENSATION.—The
21 Commission may appoint and fix the compensation
22 of the staff director and other employees without re-
23 gard to the provisions of title 5, United States Code,
24 governing appointments in the competitive service,
25 and without regard to the provisions of chapter 51

1 and subchapter III of chapter 53 of such title relat-
2 ing to classification and General Schedule pay rates,
3 except that the rate of pay for the staff director may
4 not may exceed the equivalent of that payable to a
5 person occupying a position at level IV of the Execu-
6 tive Schedule and the rate of pay for any other em-
7 ployee of the Commission may not exceed the equiv-
8 alent of that payable to a person occupying a posi-
9 tion at level V of the Executive Schedule.

10 (4) EXPERTS AND CONSULTANTS.—With the
11 approval of the Chairperson, the staff director may
12 procure temporary and intermittent services under
13 section 3109(b) of title 5, United States Code.

14 (5) DETAIL OF GOVERNMENT EMPLOYEES.—
15 Upon the request of the Commission, the head of
16 any Federal agency may detail, without reimburse-
17 ment, any of the personnel of such agency to the
18 Commission to assist in carrying out its duties. Any
19 such detail shall not interrupt or otherwise affect the
20 civil service status or privileges of such personnel.

21 (6) VOLUNTEER SERVICES.—Notwithstanding
22 section 1342 of title 31, United States Code, the
23 Commission may accept and use voluntary and un-
24 compensated services as the Commission determines
25 necessary.

1 (j) SECURITY CLEARANCES FOR COMMISSION MEM-
2 BERS AND STAFF.—The appropriate Federal agencies or
3 departments shall cooperate with the Commission in expe-
4 ditiously providing to the commissioners, including the
5 Chairperson and Vice-Chairperson, and the staff director
6 and other employees, appropriate security clearances to
7 the extent possible pursuant to existing procedures and
8 requirements.

9 (k) FUNDING.—

10 (1) IN GENERAL.—Of the amounts authorized
11 to be appropriated for fiscal year 2021 by this Act,
12 \$4,000,000 shall be made available for transfer to
13 the Commission for purposes of the activities of the
14 Commission under this section.

15 (2) DURATION OF AVAILABILITY.—Amounts
16 made available to the Commission under paragraph
17 (1) shall remain available until the until the termi-
18 nation of the Commission.

19 (l) TERMINATION.—The Commission shall terminate
20 on the date that is 180 days after the date on which the
21 Commission submits the report under subsection (m)(2).

22 (m) BRIEFINGS AND REPORT.—

23 (1) BRIEFINGS.—The Chairperson, Vice-Chair-
24 person, and staff director of the Commission shall
25 provide quarterly briefings to the appropriate con-

1 gressional committees, of which not fewer than two
2 briefings shall be for Members of Congress.

3 (2) REPORT.—

4 (A) IN GENERAL.—Not later than 540
5 days after the initial meeting of the Commis-
6 sion under subsection (e), the Commission shall
7 submit to the appropriate congressional com-
8 mittees an unclassified report that includes the
9 following:

10 (i) The findings, conclusions, and rec-
11 ommendations of the Commission pursuant
12 to the review and assessment under sub-
13 section (b).

14 (ii) Summaries of the input and rec-
15 ommendations of each individual with
16 whom the Commission consulted in accord-
17 ance with subsection (f), attributed in ac-
18 cordance with the preference expressed by
19 such individual.

20 (B) CLASSIFIED ANNEX.—The report re-
21 quired under this subsection may include a clas-
22 sified annex.

23 (C) ADDENDUM.—Pursuant to subsection
24 (h)(3), the Commission shall publish as an ad-
25 dendum to the report under subsection (m)(2)

1 a list of all gifts received and the individual or
2 entity from which such gift was received.

3 (3) PUBLIC RELEASE.—Not later than seven
4 days after the date on which the Commission sub-
5 mits the report under this subsection, the Commis-
6 sion shall make publicly available such report, with
7 the exception of any classified annex under para-
8 graph (2)(B).

9 (n) DEFINITIONS.—In this section:

10 (1) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term “appropriate congressional com-
12 mittees” means—

13 (A) the Committee on Armed Services, the
14 Committee on Homeland Security, the Com-
15 mittee on Foreign Affairs, the Permanent Se-
16 lect Committee on Intelligence, the Committee
17 on the Judiciary, and the Committee on Finan-
18 cial Services of the House of Representatives;
19 and

20 (B) the Committee on Armed Services, the
21 Committee on Homeland Security and Govern-
22 mental Affairs, the Committee on Foreign Rela-
23 tions, the Select Committee on Intelligence, the
24 Committee on the Judiciary, and the Com-
25 mittee on Finance of the Senate.

1 (2) DOMESTIC TERRORISM.—The term “domes-
2 tic terrorism” has the meaning given such term in
3 section 2331 of title 18, United States Code.

4 (3) INDIAN TRIBE.—The term “Indian tribe”
5 has the meaning given such term in section 4 of the
6 Indian Self-Determination and Education Assistance
7 Act of 1975 (25 U.S.C. 5304).

8 (4) INTERNATIONAL TERRORISM.—The term
9 “international terrorism” has the meaning given
10 such term in section 2331 of title 18, United States
11 Code.

12 (5) REGISTERED LOBBYIST.—The term “reg-
13 istered lobbyist” means a lobbyist described in sec-
14 tion 3 of the Lobbying Disclosure Act of 1995 (2
15 U.S.C. 1603).

16 (6) UNITED STATES PERSON.—The term
17 “United States person” has the meaning given that
18 term in section 101 of the Foreign Intelligence Sur-
19 veillance Act of 1978 (50 U.S.C. 1801).

